

STANDARD APPLICATION Harford County Board of Appeals

Bel Air, Maryland 21014

RECEIVED
MAR 31 2004
HARFORD COUNTY COMMISSION

Case No. 5421
Date Filed 3-29-04
Hearing Date _____
Receipt _____
Fee \$450-

Shaded Areas for Office Use Only

Type of Application	Nature of Request and Section(s) of Code
<input type="checkbox"/> Administrative Decision/Interpretation <input type="checkbox"/> Special Exception <input type="checkbox"/> Use Variance <input type="checkbox"/> Change/Extension of Non-Conforming Use <input type="checkbox"/> Minor Area Variance <input checked="" type="checkbox"/> Area Variance <input type="checkbox"/> Variance from Requirements of the Code <input type="checkbox"/> Zoning Map/Drafting Correction <input type="checkbox"/> _____	<p>CASE 5421 MAP 32 TYPE Variance</p> <p>ELECTION DISTRICT 4 LOCATION 1319 Wiley Oak Drive, Jarrettsville, Md. 21084</p> <p>BY Kenneth W. and Denise L. Sliker</p> <p>Appealed because a variance pursuant to Section 267-35B, Table III of the Harford County Code to allow an existing attached garage to be within the required 40 foot front yard setback (10 foot existing) in a RR District requires approval by the Board.</p>

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Kenneth W. Sliker Phone Number call attorney

Address 1319 Wiley Oak Drive Jarrettsville MD 21084-1953
Street Number Street City State Zip Code

Co-Applicant Denise L. Sliker Phone Number call attorney

Address 1319 Wiley Oak Drive Jarrettsville MD 21084-1953
Street Number Street City State Zip Code

Contract Purchaser n/a Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative John J. Gessner, Esquire Phone Number 410-893-7500

Address 11 S. Main Street, P.O. Box 1776, Bel Air, Maryland 21014-7776
Street Number Street City State Zip Code

Land Description

Address and Location of Property Wiley Oak Drive off Baldwin Mill Road near intersection
with Rt. 23 in Jarrettsville

Subdivision 4223; Centennial Oaks Lot Number 13

Acreage/Lot Size 1.01 AC Election District 04 Zoning RR

Tax Map No. 32 Grid No. 3B Parcel 500 Water/Sewer: Private _____ Public X

List ALL structures on property and current use: residential home; detached garage; deck

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number n/a

Would approval of this petition violate the covenants and restrictions for your property? no

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No X

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes _____ No X

Is this request within one (1) mile of any incorporated town limits? Yes _____ No X

Request

See attached.

Justification

See attached.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

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2 : 19080.doc
206189

**ATTACHMENT TO APPLICATION OF KENNETH W. SLIKER & DENISE L.
SLIKER**

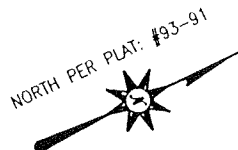
REQUEST:

An area variance pursuant to Section 267-11 of the Harford County Zoning Code ("Code") from the provisions of Section 267-35(B), Table III, of the Code to permit a single family detached residential dwelling to be located in the required twenty-five (25) foot front yard of the subject property, zoned RR, Rural Residential, and the forty (40) foot minimum building setback shown on the recorded subdivision plat of the subject property ("Plat") (ten (10) foot setback proposed) as shown on the attached site plan.

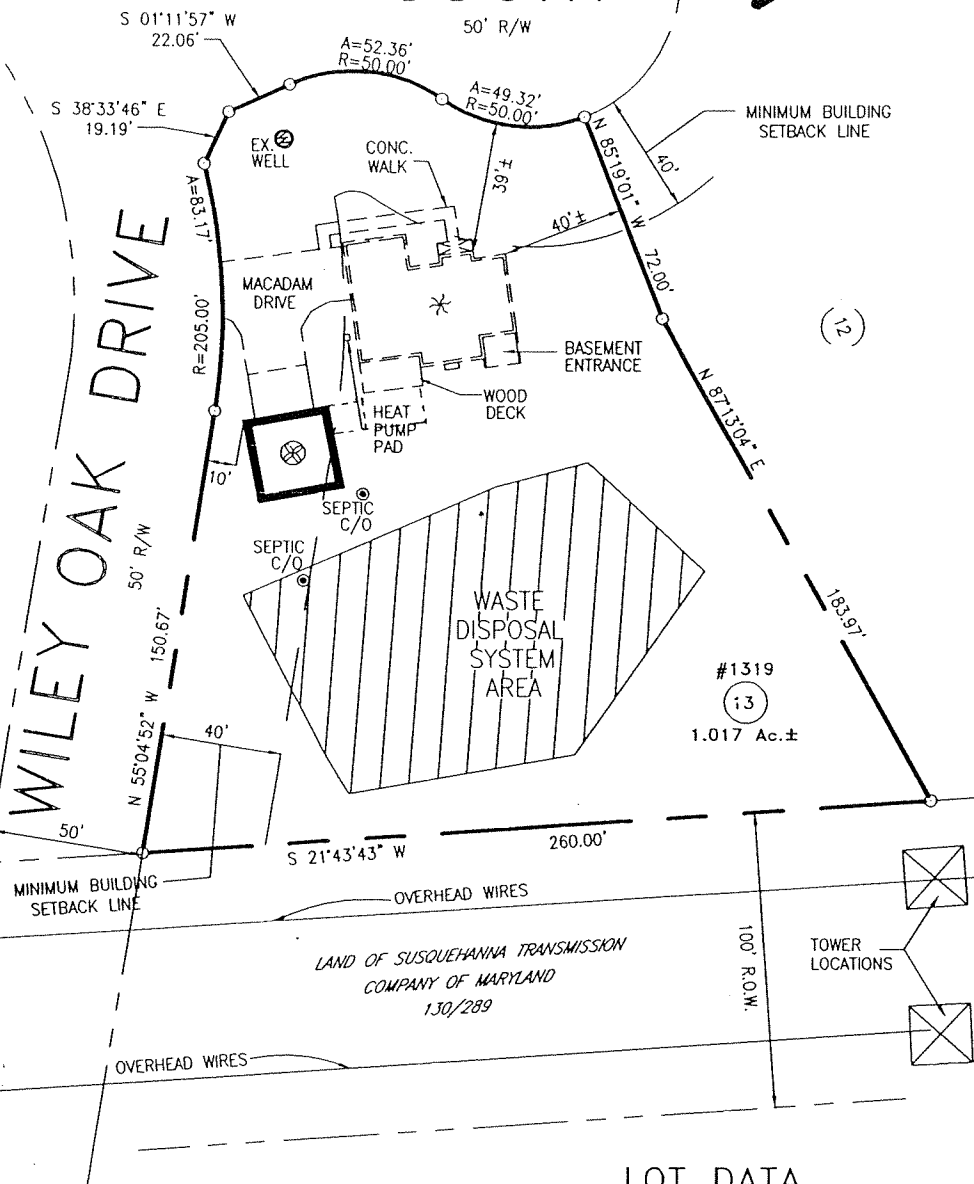
JUSTIFICATION:

The subject property is a corner lot. Accordingly, under the Code, the subject property has two (2) front yards. Pursuant to Board of Appeals Case No. 5181, approval was granted to construct a detached garage in the front yard and within the minimum building setback line shown on the Plat. The Applicants have constructed a breezeway, which connects the existing dwelling to the detached garage approved in Case No. 5181. As a result of the construction of the breezeway, under the Code, the former detached garage has become a part of the dwelling. The Applicants were unaware that this would be the effect of constructing the breezeway. The dwelling now encroaches into the front yard setback and minimum building setback shown on the Plat. No change to the location of the garage or dwelling is proposed. By reason of the uniqueness of the subject property or topographical conditions, the literal enforcement of the Code would result in practical difficulty or unreasonable hardship. Granting the requested variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

BECKY COURT



WILEY OAK DRIVE



LOT DATA

1. TOTAL LOT AREA: 1.017 Ac.±
2. PLAT REF: C.G.H. 93-91
3. DEED REF: C.G.H. 3442/95

OWNER

KENNETH W. SLIKER &
DENISE L. SLIKER
1319 WILEY OAK DRIVE
JARRETTSVILLE, MD. 21084-1953

⊗ DENOTES PROPOSED DETACHED GARAGE 28' X 28'

* DENOTES EXISTING 2 STORY STONE & VINYL SIDED DWELLING.

ZONING NOTE: THE PORCH PORTION OF THE DWELLING APPEARS TO ENCR OACH THE MINIMUM BUILDING SETBACK LINE AS ALLOWED BY SECTION 267-23 OF THE ZONING CODE OF HARFORD COUNTY.

CNA

campbell & nolan associates, inc.

Civil Engineers * Land Surveyors * Geotechnical Engineers
P.O. Box 850 * Bel Air, Maryland 21014
(410)879-7200 * (410)838-2784 * Fax(410)838-1811

GARAGE EXHIBIT

LOT 13

FINAL PLAT TWO-PHASE I

CENTENNIAL OAKS

FOURTH ELECTION DISTRICT

HARFORD COUNTY, MARYLAND

SCALE: 1"=50'

DATE: 8-20-01

DRAWN BY: CND

JOB NO.: 01155

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BOARD OF APPEALS CASE NO. 5181

*

BEFORE THE

APPLICANTS: Kenneth & Denise Sliker

*

ZONING HEARING EXAMINER

REQUEST: Variance to construct a detached garage within the required setbacks in the Rural Residential District; 1319 Wiley Oak Drive, Jarrettsville

*

OF HARFORD COUNTY

*

Hearing Advertised

HEARING DATE: November 1, 2001

*

Aegis: 9/26/01 & 10/3/01

Record: 9/28/01 & 10/5/01

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* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicants, Kenneth W. Sliker, and Denise L. Sliker, are requesting a variance, pursuant to Section 267-26C(4) of the Harford County Code, to allow a detached garage to be located in the front yard, pursuant to Section 267-35C, Table III, of the Harford County Code, within the 25 foot front yard setback and the 40 foot minimum building setback shown on the recorded subdivision plat in an RR Conservation District.

The subject parcel is located at 1319 Wiley Oak Drive, Jarrettsville, Maryland 21084, in the Fourth Election District, and is more particularly identified on Tax Map 32, Grid 3B, Parcel 500, in the subdivision of Centennial Oaks. The parcel contains approximately 1.01 acres.

The Applicant, Kenneth W. Sliker, appeared and testified that he and the Co-Applicant, Denise L. Sliker, are the owners of the subject property. He is familiar with the Department of Planning and Zoning's Staff Report, and has no changes or corrections to that Report. He also stated that he has no objection to any of the conditions of approval recommended in the report. Mr. Sliker described his property as an unusually shaped corner lot, currently improved by a two-story dwelling, approximately 3,400 square feet in size. The existing home has an attached two-car garage, but the garage is incorporated into a finished basement occupied by the Co-Applicant's parents. There is a blacktop drive to the right of the dwelling with access onto Wiley Oak Drive.

Case No. 5181 – Kenneth & Denise Sliker

The witness stated that he proposes to build a 28 foot by 28 foot (784 square foot) detached garage with an 8 by 12-pitched roof. The materials used to construct the proposed garage will match those used in the construction of the existing dwelling. The garage will be used for storage of personal property and lawn equipment. The side of the proposed garage will encroach into the front yard setback, and will come as close as 10 feet from the property line along Wiley Oak Drive. Mr. Sliker testified that due to the unusual configuration of the property, and the placement of the existing home, drive, and septic system, there is no other feasible location on the subject property to build a detached garage. The witness then introduced a letter of approval from the Centennial Oaks Community Association, stating that it has no objection to the construction of the proposed garage.

Finally, Mr. Sliker testified that he does not believe that the requested variance would have any adverse impact on adjoining properties, because the design of the proposed garage is compatible with both the existing home, and with and other properties in the neighborhood.

Mr. Rowan Glidden, a duly qualified registered landscape planner from the firm of Campbell & Nolan Associates, Inc., appeared and testified that he had reviewed the application, staff report, zoning code and tax maps, and had personally visited the subject property. The witness stated that the Department of Planning and Zoning Staff Report accurately describes the subject property. The property fronts on Becky Court, but will have access to the proposed garage from Wiley Oak Drive. The property backs to an overhead transmission line, and the existing septic system is located to the rear of the dwelling.

Mr. Rowan stated that in his opinion the subject property is unique. It is a corner lot located at the intersection of Wiley Oak Drive and Becky Court. Becky Court is very short, and this creates an unusual configuration for the front property line. The witness stated that the property is also unique because the subdivision plat was recorded with an extra setback line. The developer requested that the front setback be increased to 40 feet, instead of the 25 feet required by the Code.

Case No. 5181 – Kenneth & Denise Sliker

According to Mr. Rowan, the proposed location is the only practical place on the property to locate a detached garage. Building a smaller garage would create practical difficulty for the Applicants, because it would not meet their storage needs.

Finally, the witness testified that the granting of the requested variance will not create any detriment to adjoining property owners because the Applicants can meet all of the conditions suggested by the Department of Planning and Zoning. In addition, the proposed detached garage will not create any sight distance problems, because of its placement on Wiley Oak Drive, to the rear of the existing dwelling.

The Department of Planning and Zoning recommended approval of the subject request in its Staff Report dated July 30, 2001, stating that:

“The Department finds that the subject property is unique. The property is an unusually shaped corner lot, subject to two front yard setbacks. The garage should not have an adverse impact on traffic or sight distance along Wiley Oak Drive. The proposed location appears to be the only practical area for the garage due to the location of the septic reserve area.”

No witnesses appeared in opposition to the requested variance.

CONCLUSION:

The Applicants, Kenneth W. Sliker, and Denise L. Sliker, are requesting a variance pursuant to Section 267-26C(4) of the Harford County Code to allow a 28 foot by 28 foot detached garage to be located in the front yard pursuant to Section 267-35C, Table III of the Harford County Code within the 25 foot front yard setback, and the 40 foot minimum building setback shown on the recorded subdivision plat in a RR Conservation District (10 feet proposed).

Section 267-26C(4) of the Harford County Code provides:

“No accessory use of structure shall be established within the required front yard, except agriculture, signs, fences, walls, or parking area and projections or garages as specified in Section 267-23C, Exceptions and modifications to minimum yard requirements.”

Case No. 5181 – Kenneth & Denise Sliker

Section 267-23C of the Harford County Code provides for limited exceptions and modifications to minimum yard requirements, however there is no provision in that Code Section which allows for a detached garage to be constructed within the minimum front yard setback. Section 267-35C, Table III, of the Harford County Code Design Requirements for Specific Uses in a Rural Residential District, provides for a minimum 25 foot front yard depth. This requirement was increased to a 40 foot minimum building setback by the developer when the subdivision plat was recorded.

The Harford County Code permits the granting of variances, stating that:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

The Maryland Court of Special Appeals set forth a two prong test for determining whether a variance should be granted in the case of Cromwell v. Ward, 102 Md. App. 691, (1995). This test can be summarized as follows. First, there must be a determination as to whether there is anything unique about the property for which the variance is being requested. A lot is unique only if there is a finding that a peculiar characteristic or unusual circumstance, relating only to the subject property, causes the zoning ordinance to impact more severely on that property than on surrounding properties. Cromwell, *supra*, at 721. If the subject property is found to be unique, the hearing examiner may proceed to the second prong of the test. The second prong involves a determination as to whether literal enforcement of the zoning ordinance, with regard to the unique property, would result in practical difficulty or unreasonable hardship to the property owner.

Case No. 5181 – Kenneth & Denise Sliker

The Hearing Examiner finds that the subject property is unique. The property is a corner lot and hence subject to two front yard setbacks. In addition, the developer recorded the subdivision plat with a setback, greater than that required by the Harford County Code. Development in the rear yard is limited by the existing septic system and septic reserve. There was no opposition testimony introduced to contradict any of these findings. Thus, the first prong of the Cromwell test has been met.

Having found that the subject property is unique, it must next be determined whether denial of the requested variance would create an unreasonable hardship or practical difficulty for the Applicants. The Hearing Examiner finds that literal enforcement of the Code would result in practical difficulty in this case because the unusual configuration of the subject property, the locations of the existing dwelling drive and septic system, and the size of the garage required by the Applicants, make the proposed location the only practical place on the subject property where a detached garage can be constructed. If the variance is not granted, the Applicants will be denied property rights commonly enjoyed by others within the Centennial Oaks Subdivision, and Harford County generally.

Finally, the Hearing Examiner finds that the granting of the requested variance will not have any adverse impact on adjacent properties, or materially impair the purpose of this Code or the public interest. The proposed garage will be constructed of materials which match those used in the existing two story dwelling. In addition, the proposed construction will not cause any sight distance problems on Wiley Oak Drive.

The Hearing Examiner recommends approval of the Applicant's request subject to the following conditions:

1. That the Applicant obtain all necessary permits and inspections for the proposed construction.
2. That the garage shall be designed to be compatible with the existing dwelling, and similar materials shall be used in its construction.
3. That the proposed garage shall be used only for Applicant's personal use, and shall not be used for business purposes or for living area.

Case No. 5181 – Kenneth & Denise Sliker

4. That the Applicant not encroach further into the required setback than the distance requested herein.

Date NOVEMBER 30, 2001

**Rebecca A. Bryant
Zoning Hearing Examiner**

JAMES M. HARKINS
HARFORD COUNTY EXECUTIVE

JOHN J. O'NEILL, JR.
DIRECTOR OF ADMINISTRATION



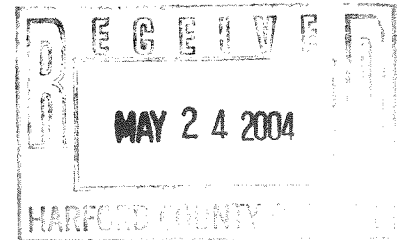
J. STEVEN KAI-ZIEGLER
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

May 21, 2004

STAFF REPORT



BOARD OF APPEALS CASE NO. 5421

APPLICANT/OWNER: Kenneth W. Sliker
1319 Wiley Oak Drive, Jarrettsville, Maryland 21084-1953

Co-APPLICANT/OWNER: Denise L. Sliker
1319 Wiley Oak Drive, Jarrettsville, Maryland 21084-1953

REPRESENTATIVE: John J. Gessner, Esquire
11 S. Main Street, P.O. Box 1776, Bel Air, Maryland 21014-7776

LOCATION: Wiley Oak Drive/Centennial Oaks
Tax Map: 32 / Grid: 3B / Parcel: 500 / Lot: 13
Election District: Fourth (4)

ACREAGE: 1.01 acres

ZONING: RR/Rural Residential

DATE FILED: March 29, 2003

HEARING DATE: June 2, 2004

APPLICANT'S REQUEST and JUSTIFICATION:

See Attachment 1.

Preserving our values, protecting our future

STAFF REPORT

Board of Appeals Case Number 5421

Kenneth & Denise Sliker

Page 2 of 4

CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Section 267-35B, Table III of the Harford County Code to allow an existing attached garage to be within the required 40-foot front yard setback (10-foot existing) in an RR/Rural Residential District.

Enclosed with the report is a copy of Section 267-35B, Table III of the Harford County Code (Attachment 2).

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The subject property is located south of the village of Jarrettsville. It is situated to the east side of Baldwin Mill Road (MD Route 165) and north of MD Route 23 in the development of Centennial Oaks. The lot is a corner lot with frontage on Wiley Oak Drive and Becky Court. A location map and a copy of the Applicants' site plan are enclosed with the report (Attachments 3 and 4).

The subject property is located outside of the Development Envelope. The predominant land use designation in this area of the County is Rural Residential. Other land use designations include Agricultural/AG Residential. The Rural Village of Jarrettsville is located north of the site. The Natural Features Map reflects stream buffer systems. The subject property is designated as Rural Residential, which is defined by the 1996 Master Plan as:

Rural Residential – Areas of focused rural development within the agricultural area, which allow low intensity residential opportunities while maintaining the character of the surrounding countryside. Water and sewer services are not planned for these areas. Residential density is limited to 1.0 dwelling unit per 2 acres.

Enclosed with the report are copies of portions of the 1996 Land Use Map and the Natural Features Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses conform to the intent of the Master Plan. There are numerous single-family residential developments in the immediate area as well as agricultural uses. The Centennial Oaks development was created under the Conservation Development Standards of the County Code. Commercial activity is generally located in the Village Center. The topography of the area ranges from rolling to steep. Enclosed with the report is a copy of the aerial photograph (Attachment 7).

STAFF REPORT

Board of Appeals Case Number 5421

Kenneth & Denise Sliker

Page 3 of 4

The Applicants' property is a uniquely shaped corner lot with frontage on Wiley Oak Drive and Becky Court. It is approximately 1.01 acres in size with rolling topography. The topography is level to gently sloping immediately around the dwelling; however, the lot slopes down to the adjoining lot to the north and to the rear property line. Adjoining the lot to the east side is a right-of-way owned by the Susquehanna Transmission Company of Maryland. The well is located in the front yard and the septic is to the rear. Improvements consist of a frame two-story single-family dwelling with an attached two-car garage and a blacktopped driveway. In 2001 the Applicant went to the Board of Appeals (Case 5181-Attachment 8) for a detached garage within the front yard setback. In 2003 the Applicant obtained a permit (03286B0120-Attachment 9) for a sunroom attached to the rear of the dwelling. Attaching the garage to the sunroom is a breezeway. Enclosed with the report is a topography map, an enlargement of the aerial photograph and site photographs (Attachments 10, 11 and 12).

Zoning:

The zoning classifications conform to the intent of the Master Plan as well as the existing land uses. The predominant zoning classifications for the area are AG/Agricultural and RR/Rural Residential. Enclosed with the report is a copy of the Zoning Map (Attachment 13).

SUMMARY:

The Applicants are requesting a variance pursuant to Section 267-35B, Table III of the Harford County Code to allow an existing attached garage to be within the required 40-foot front yard setback (10-foot existing) in an RR/Rural Residential District.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the Applicants must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

The Applicants obtained a permit in 2003 to construct a sunroom onto the rear of the dwelling and at that time they connected the garage to the dwelling by way of a breezeway. The breezeway was not part of the permit. The breezeway does not further reduce the existing setbacks that were approved by the Board of Appeals in Case 5181. Approving the requested variance will generate no additional impact on the neighborhood.

STAFF REPORT

Board of Appeals Case Number 5421

Kenneth & Denise Sliker


Page 4 of 4

RECOMMENDATION and/or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the requested variance be approved subject to the Applicants obtaining all necessary permits and inspections for the breezeway.



Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/ka